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Before the
Federal Communications Commission
Washington, D.C. 20554

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In the Matter of)

Federal-State Joint Board on
Universal Service)

CC Docket No. 96-45

COMMENTS OF

EVANS TELEPHONE COMPANY
HUMBOLDT TELEPHONE COMPANY
KERMEN TELEPHONE CO.
OREGON-IDAHO UTILITIES, INC.
PINE TREE TELEPHONE & TELEGRAPH COMPANY
PINNACLES TELEPHONE CO.
THE PONDEROSA TELEPHONE CO.
THE SISKIYOU TELEPHONE COMPANY
THE VOLCANO TELEPHONE COMPANY
WAR TELEPHONE COMPANY

ON THE RECOMMENDED DECISION OF THE FEDERAL-STATE
JOINT BOARD ON UNIVERSAL SERVICE FOR ADOPTION OF
THE RURAL TASK FORCE RECOMMENDATION

Dated: February 26, 2001

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**COMMENTS OF SMALL RURAL LECs
ON THE RECOMMENDED DECISION OF THE FEDERAL-STATE
JOINT BOARD ON UNIVERSAL SERVICE FOR ADOPTION OF
THE RURAL TASK FORCE RECOMMENDATION**

In response to the Commission's January 10, 2001, Further Notice of Proposed Rulemaking (Further Notice) seeking comment on the December 22, 2000, Recommended Decision of the Federal-State Joint Board on Universal Service (Joint Board), Evans Telephone Company, Humboldt Telephone Company, Kerman Telephone Co., Oregon-Idaho Utilities, Inc., Pine Tree Telephone & Telegraph Company, Pinnacles Telephone Co., The Ponderosa Telephone Co., The Siskiyou Telephone Company, The Volcano Telephone Company, and War Telephone Company (the Small Rural LECs) respectfully present their following comments in support of the Joint Board's proposal that the Recommendation of the Rural Task Force be adopted as the foundation of the Commission's rural universal service plan.

I. INTRODUCTION.

1. The Small Rural LECs are small, independent local exchange carriers serving high-cost, rural areas in the states of California, Idaho, Maine, Nevada, Oregon, and West Virginia. As small, incumbent LECs, they receive support for a substantial portion of their costs of operation from the interstate Universal Service Fund, under the Commission's rules. Each of the

Small Rural LECs is classified as a "Rural Telephone Company" (RTC) under the Telecommunications Act of 1996 (1996 Act),¹ and each has been designated as an "Eligible Telecommunications Carrier" by its state commission.

2. The Small Rural LECs provide high-quality telecommunications services to their rural customers--standards of service that directly result from and will continue to depend upon the availability of adequate support funds to meet the high costs of operation in their rural service territories. Under the provisions of the 1996 Act, consumers in rural areas are entitled to receive services that are comparable in quality and price to those available to residents of rural areas.² The services provided today by the Small Rural LECs meet this statutory requirement, and the challenge addressed by the Rural Task Force was to adapt the existing, successful universal service support system to accommodate other requirements of the 1996 Act.

3. The Small Rural LECs have participated in several past proceedings at both state and federal levels on issues involving implementation of the universal service principles of the 1996 Act. They have also been involved in the efforts of their national associations and their cost consultants in addressing universal service issues. These regulatory proceedings over the past five years have yet to produce a workable universal service policy for high-cost rural areas that meets the requirements of the 1996 Act. The Recommendation of the Rural Task Force represents a major step in the direction of such a sustainable, long-term universal service policy,

¹47 U.S.C. Section 153 (37).

²Consumers in all regions of the Nation, including low-income consumers and those in rural, insular, and high cost areas, should have access to telecommunications and information services, including interexchange services and advanced telecommunications and information services, that are reasonably comparable to those services provided in urban areas and that are available at rates that are reasonably comparable to rates charged for similar services in urban areas. 1996 Act, Section 254(b)(3).

and the Small Rural LECs urge that the Commission accept the Recommended Decision of the Joint Board and adopt the Rural Task Force Recommendation.

II. THE RURAL TASK FORCE RECOMMENDATION SHOULD BE ADOPTED BY THE COMMISSION FOR IMMEDIATE IMPLEMENTATION TO GOVERN UNIVERSAL SERVICE FUNDING FOR AREAS SERVED BY RTCs.

A. The Task Force Recommendation Presents a Studied, Balanced Resolution of Issues That Have in the Past Evaded Consensus.

4. The Rural Task Force Recommendation is the first comprehensive proposal for implementation of the policies and principles of the 1996 Act on the subject of universal service support for high-cost RTCs that includes input of and support by a broad base of interested stakeholders. Rural Task Force participants included RTC representatives, regulators, potential rural local service competitors, interexchange carriers, and wireless interests. Despite the seeming diversity of these interests, the resulting Recommendation is a single consensus proposal rather than a collection of majority and minority reports on the wide range of issues studied and addressed by the Task Force. The remarkable nature of this consensus was recognized by Commissioner Furchtgott-Roth in his Separate Statement that accompanied the Joint Board's Recommended Decision:

Chairman William Gillis led the Rural Task Force in a mission designed to fail: from disparate and conflicting parties, form a consensus view on universal service for small rural telephone companies. Chairman Gillis believed the Rural Task Force could succeed; practically all outside observers believed no consensus could be reached. He was proved correct; others were proved wrong. The members of the Rural Task Force have proven to have a greater sense of the public interest in reaching an

agreement than others believed possible.³

5. The Recommendation comprehensively addresses the potentially conflicting policy goals set forth in the 1996 Act of preserving high quality, universal telephone service in high-cost areas served by RTCs, while at the same time making provision for the development of a nationwide, competitive market for telecommunications services that would include those same high-cost service areas. These are issues that had evaded meaningful policy consensus until the Commission and the Joint Board acted to create a broad-based Rural Task Force to develop an appropriate universal service cost mechanism for areas served by Rural Carriers. The Task Force having achieved its goal, the Commission should now move forward with the adoption of the Task Force Recommendation.

6. The Task Force achieved consensus on these important issues by focussing its deliberations around a comprehensive, written evidentiary record. The six white papers assembled by the Task Force represent the most thorough study of these issues that has been produced by any source since passage of the 1996 Act. This evidentiary record is cited repeatedly throughout the Recommendation and provides clear, fact-based support for the Task Force's recommended universal service mechanism and for its recommended universal service policies for areas served by RTCs.

B. The Evidentiary Record Compiled by the Task Force Furnishes Compelling Support for the Recommendation.

7. The evidentiary record set forth in the six white papers represents the critical

³Separate Statement of Commissioner Harold Furchtgott-Roth accompanying the December 22, 2000, Recommended Decision of the Federal-State Joint Board on Universal Service.

foundation of the recommended universal service policies. Specific policy recommendations are clearly grounded in real-life facts and data, in striking contrast to the typically unsupported rhetoric found in many filings with the Commission on these subjects. The deliberations of the Task Force were informed and guided by this factual underpinning as well as by the legal and policy principles underlying universal service as found in the 1996 Act and other controlling authority.⁴

8. The Task Force undertook a detailed study to define the particular needs and requirements for a universal service program appropriate for areas served by RTCs. To accomplish this study, a comprehensive analysis was prepared of relevant cost and service characteristics of all Rural Carriers. This study, detailed in White Paper 2, illustrated that the "rural difference" includes not only the critical differences between Rural and non-Rural Carriers, but also the wide range of diversity among Rural Carriers themselves.⁵

9. Other comprehensive research of the Task Force resulted in White Paper 4, which sets forth a detailed analysis of the Commission's adopted proxy cost model as a potential basis for determining universal service funding support for areas served by RTCs. This analysis includes data from over 200 rural test companies, selected to represent diversity in terms of size, geography, and national region.⁶ The analysis found wide variation between outputs of the Commission's proxy cost model and actual company service data and determined that as applied to individual wire centers or individual RTCs, the model's cost outputs were "likely to vary

⁴Recommendation, Section II B, pp. 7-10.

⁵Recommendation, Section II C, pp 10-14.

⁶Recommendation at p. 17.

widely from reasonable estimates of forward-looking costs."⁷ The Task Force concluded:

"... that the non-rural method and synthesis Model developed for the non-Rural carriers are not the appropriate tool and application for Rural Carriers and will not produce a sufficient universal service mechanism for Rural Carriers that is in the public interest and consistent with the provisions of the 1996 Act."⁸

C. The Commission Should Adopt the Task Force's Recommended Modified Embedded Cost Mechanism to Implement Federal Universal Service Support for Rural Carriers.

10. The Task Force Recommendation proposes a Modified Embedded Cost Mechanism described at pages 20-33 of the report. This mechanism, like the current support system, is based on the embedded costs of each study area, but the Recommendation goes on to identify several specific areas which constitute weaknesses of the present system. Specific proposals are made by the Task Force to address these areas of weakness and to ensure that support is sufficient to achieve the universal service principles contained in Section 254 of the 1996 Act.

11. The Task Force Recommendation also includes specific policies and procedures designed to adapt the recommended cost-based support system to a competitive environment by providing for disaggregation of support and portability of support to lines served by competitive carriers.⁹ It also addresses the need to modify or remove the various funding "caps" or limitations that have been grafted onto the existing system and which are inconsistent with the

⁷Recommendation at p. 18.

⁸Recommendation, at p. 20.

⁹Recommendation, pp. 25-27; 33-38.

"sufficient funding" requirements of Section 254.¹⁰ Finally, the Recommendation notes the need for the Commission to consider issues of stranded costs that may arise with the advent of competition in an area formerly served by a single carrier with carrier of last resort obligations.¹¹

III. RELATION OF THE RURAL TASK FORCE RECOMMENDATION TO THE MAG PLAN PROPOSAL.

12. The Commission has received the Petition for Rulemaking submitted by the Multi-Association Group (MAG) and has issued a Notice of Proposed Rulemaking (NPRM) in response to the MAG Petition, in CC Docket No. 00-256. This MAG-related NPRM has been placed on a parallel comment cycle with the Further Notice issued in the within proceeding.

13. The MAG Plan was developed by its sponsoring organizations in response to a request from the Commission that small, rural LECs formulate an access charge reform proposal that would continue the Commission's efforts at access reform, most recently represented in the CALLS Order.¹² The Small Rural LECs are members of the MAG-sponsoring organizations and support Commission adoption of the MAG Plan. They will file separate comments in support of the MAG Plan in the MAG Plan NPRM docket. Since there are some areas of overlap between the RTF Recommendation and the MAG Plan, the Small Rural LECs will also address the

¹⁰The evidentiary record would support complete elimination of these caps in order to provide sufficient funding for Rural Carriers in accordance with Section 254.

¹¹This issue, while "controversial" as noted in the Task Force Recommendation, must be adequately addressed by the Commission if the goal of promoting continued investment in advanced technologies is to be achieved in high-cost, rural service areas. A related issue that should also be considered in the same rulemaking proceeding is the need to provide incentives for further infrastructure investment in advanced technologies following the "freeze" of per loop support amounts that would occur when a CLEC first enters an incumbent Rural Carrier's service area. The presence of a CLEC, most likely serving only a selected portion of the RTC's service territory, will provide a disincentive to further investment in the new facilities needed to offer advanced services.

¹²15 FCC Rcd 12962.

relationship of the two proposals in these comments.

14. The RTF Recommendation addresses access charge reform issues in a limited manner, specifically in Section IV.C of the Recommendation.

The Task Force recognizes that interstate access may also include high cost universal service support in the form of implicit support. The Task Force accordingly identified the potential need for an additional universal service support fund, High Cost Fund III, to replace support implicit within current interstate access charges collected by Rural Carriers.¹³

15. The RTF Recommendation does not, however, specify details of its High Cost Fund III proposal. Instead, the Recommendation proposes a list of nine principles that should be reflected in interstate access charge reform for small rural carriers. These principles, as reflected in the Recommendation and advanced to the Commission by the Joint Board's approval of the RTF Recommendation, are consistent with the MAG Plan's proposal for reform of interstate access charges. In this respect the two proposals are complementary.

16. The MAG Plan also includes recommendations addressing "traditional" universal service support that are not currently included in the interstate access charge system. For the most part, the MAG proposals on these universal service issues are consistent with the RTF Recommendation. Both proposals demonstrate the unworkability of hypothetical, model-based universal service funding for small, rural carriers. Both plans propose, instead, a transition of the current cost-based support system to accommodate the requirements of a competitive environment, including portability of support to competitive carriers. While the two plans differ

¹³Recommendation at p. 30.

in certain technical aspects,¹⁴ the areas of difference are minor in comparison to the areas of consistency between the two proposals.

IV. CONCLUSION.

17. The Commission and the Joint Board created the Rural Task Force to produce a solution to rural carrier universal service issues which have heretofore produced controversy rather than resolution. The Task Force has achieved consensus on these difficult issues which have eluded resolution for many years. The Small Rural LECs support the Rural Task Force Recommendation and the Joint Board's Recommended Decision that the Commission adopt the Rural Task Force Recommendation.

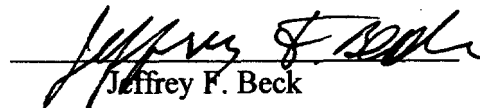
Dated: February 26, 2001

Respectfully Submitted,

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By Their Attorneys

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¹⁴The MAG Plan, for example, proposes three "zones" of cost disaggregation, while the RTF Recommendation allows self-certification with two zones or additional disaggregation when approved by the state commission. The MAG Plan also provides for removal of certain funding limitations or "caps," which are addressed in the RTF Recommendation for re-indexing of the caps. See, also, fns 10 & 11, *infra*.